

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.1361 of 2012**

Smt.Ramshila Bai W/o Shri Chhatrapal Singh, aged about 27 years, R/o village Jhabar, Post.-Dipaka, Tahsil-Katghora, Distt.-Korba (CG)

----- **Petitioner**

Versus

- 1.The Collector, Korba, Distt.-Korba (CG)
- 2.The District Project Officer, Ekikrit Bal Vikas Pariyojana Katghora, Distt.-Kotba (CG)
- 3.The Director, Mahila Evam Bal Vikas, Raipur Dau Kalyan Singh Bhawan, Raipur (CG)
- 4.The Chief Executive Officer, Janpad Panchayat Katghora, Distt.-Korba (CG)
- 5.The Sarpanch, Gram Panchayat Jhabar, Post Office & Police Station-Dipaka, Tahsil-Katghora, Distt.-Korba (CG)
- 6.Smt.Gayatri Bai Gond Wd/o Late Shri Lalaji Gond, R/o village Jhabar, Post.-Dipaka, Tahsil-Katghora, Distt.-Korba (CG)

----- **Respondents**

For Petitioner	:	Mr.Shivang Dubey, Advocate
For Res.No.1 to 3/State:	:	Mr.Siddharth Dubey, Dy.G.A.
For Respondent No.4	:	Mr.Pawan Shrivastaa, Advocate
For Respondent No.6	:	Mr.F.S.Khare, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

9/9/2021

1. The petitioner herein calls in question legality, validity and correctness of the order dated 30.8.2011 (Annexure P-1) passed by respondent No.1/Collector, Korba and eventually also calls in question the order dated 13.2.2012 (Annexure P-2) passed by respondent

No.4 by which in compliance of the order dated 30.8.2011 the petitioner has been removed from the post of Aaganwadi Worker.

2. Learned counsel for the petitioner would submit that the petitioner was appointed on the post of Aaganwadi Worker on 19.6.2006 by the competent authority, against which, appeal was preferred by respondent No.6 only on 15.2.2011 with a delay of more than four years in accordance with Section 91 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (hereinafter called as 'Act of 1993') read with Rule 3 of the Chhattisgarh Panchayats (Appeal and Revision) Rules, 1995 (hereinafter called as 'Rules of 1995'), but it was not accompanied by an application for condonation of delay and the petitioner was not served with notice. Without serving notice and without condoning delay, the order dated 30.8.2011 (Annexure P-1) was passed, which is ex-facie illegal, without jurisdiction and without authority of law.

3. On the other hand, learned Deputy Government Advocate appearing for respondents No.1 to 3 and learned counsel for private respondents would support the impugned order and submit that though application for condonation of delay was not filed, but since appeal was entertained, therefore, it is deemed to have been

condoned.

4. I have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
5. True it is that the petitioner was appointed on the post of Aaganwadi Worker on 19.6.2006, against which, appeal under Section 91 of the Act of 1993 read with Rule 3 of the Rules of 1995 was preferred by respondent No.6 herein on 15.2.2011, which was not supported by an application for condonation of delay, as such, it was hopelessly barred by limitation.
6. Mr. Siddharth Dubey, learned Deputy Government Advocate after verifying original records, submits that no application for condonation of delay was filed.
7. Since appeal filed for more than four years was hopelessly barred by limitation after the date of passing the order of appointment, the appellate authority could not have entertained the appeal without condonation of delay in filing the appeal.
8. In that view of the matter, the impugned order dated 30.8.2011 (Annexure P-1) passed by respondent No.1 is hereby set-aside. The matter is remitted to respondent No.1/appellate authority for hearing and disposal of appeal in accordance with law after hearing and

noticing the parties within three months from the date of receipt of a copy of this order. However, respondent No.6 is at liberty to file an application for condonation of delay within four weeks from today before respondent No.1/Collector, Korba.

9. The writ petition is allowed to the extent indicated hereinabove. No order as to cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-